

1 Steven J. Pollinger
2 Texas State Bar No. 24011919
spollinger@mckoolsmith.com
3 Geoffrey L. Smith
Texas State Bar No. 24041939
4 gsmith@mckoolsmith.com
McKOOL SMITH, P.C.
5 300 West Sixth Street, Suite 1700
Austin, Texas 78701
6 Telephone: (512) 692-8702
7 Telecopier: (512) 692-8744

8 Martin C. Robson
9 Texas State Bar No. 24004892
10 MCKOOL SMITH, P.C.
11 300 Crescent Court, Suite 1500
12 Dallas, Texas 75201
13 Telephone: (214) 978-4000
14 Telecopier: (214) 978-4044
15 mrobson@mckoolsmith.com

13 Attorneys for Plaintiff Visto Corporation
(Additional counsel listed on signature pages)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

19 VISTO CORPORATION,
20 Plaintiff and Counterclaim-Defendant,
21 v.
22 RESEARCH IN MOTION LIMITED, and
RESEARCH IN MOTION CORPORATION
23 Defendants and Counterclaim-Plaintiffs.

Case No. CV-08-0031-MSC
Court of Original Jurisdiction:
Civil Action No. 2-06-CV-181-TJW(CE)
United States District Court For The Eastern
District of Texas - Marshall Division

**STIPULATION OF COUNSEL RE: USE
AND DISCLOSURE OF DOCUMENTS
SUBMITTED UNDER SEAL BY VISTO
CORPORATION**

Date: April 23, 2008
Time: 9:30 a.m.
Judge: Magistrate Judge Larson

1 Plaintiff Visto Corporation (“Visto Corporation”) and Google Inc. (“Google”), by and
 2 through their respective counsel of record, hereby stipulate and agree as follows:

3 1. Google agrees to abide by the terms of the Agreed Protective Order entered by the
 4 U.S. District Court for the Eastern District of Texas on April 2, 2007 in the original action, *Visto*
 5 *Corporation. v. Research in Motion Limited and Research in Motion Corporation*, Case No. 2-
 6 06-CV-181-TJW (CE). This agreement pertains only to Google’s and its outside counsel’s
 7 receipt of the materials identified below in paragraphs 2 and 3, and is not an agreement that
 8 Google agrees for any other purpose to be bound by the Agreed Protective Order. Specifically,
 9 while Visto contends the Agreed Protective Order would apply to any information that Google
 10 may eventually produce in response to Visto’s subpoena, Google does not agree by this
 11 Stipulation that the Agreed Protective Order would be applicable to such information. A true
 12 and correct copy of the Agreed Protective Order is attached to the accompanying Declaration of
 13 Martin C. Robson and designated Exhibit 1.”

14 2. The Agreed Protective Order governs the manner in which Google may use and
 15 disclose the protected information found in the below documents, which Visto Corporation
 16 submitted under seal pursuant to the Agreed Protective Order and pursuant to Local Rule 79-5:

- 17 a. Visto Corporation’s Opposition to Google’s Motion to Quash Subpoena, or in
 18 the Alternative, For Protective Order, and Visto Corporation’s Cross-Motion
 19 to Compel Google to Comply with Third-Party Subpoena;
- 20 b. Declaration of Martin C. Robson in Support of Visto Corporation’s
 21 Opposition to Google’s Motion to Quash Subpoena, or in the Alternative, For
 22 Protective Order, and Visto Corporation’s Cross-Motion to Compel Google to
 23 Comply with Third-Party Subpoena, including accompanying exhibits.

24 3. To the extent the above documents contain information designated as
 25 “Confidential – Attorney’s Eyes Only” or “Confidential – Attorney’s Eyes Only – Computer
 26 Source Code,” Google agrees to comply with sections 5.2 and 5.3 of the Agreed Protective Order
 27

1 by restricting the use and disclosure of such information only to its outside counsel as defined in
 2 the Protective Order. In particular, Exhibits B, H, I, J and K contain RIM Confidential -
 3 Attorney's Eyes Only information, and should be treated in accordance with section 5.2 of the
 4 Agreed Protective Order.

5 4. Upon receiving Google's executed Written Acknowledgement to Abide by the
 6 Terms of the Protective Order (Attachment A to the Agreed Protective Order), Visto Corporation
 7 shall serve on Google the unredacted versions of the two documents set forth above.

8 Dated: April 3, 2008.

9
 10
 11 /s/ Charles M. Kagay

12 _____
 13 Charles M. Kagay
 14 California State Bar No. 73377
 SPIEGEL LIAO & KAGAY, LLP
 15 388 Market Street, Suite 900
 San Francisco, California 94111
 Telephone: (415) 956-5959
 Telecopier: (415) 362-1431
 cmk@slksf.com

16
 17
 18 Steven J. Pollinger
 19 Texas State Bar No. 24011919
 spollinger@mckoolsmith.com
 20 Geoffrey L. Smith
 Texas State Bar No. 24041939
 21 gsmith@mckoolsmith.com
 McKOOL SMITH, P.C.
 22 300 West Sixth Street, Suite 1700
 Austin, Texas 78701
 Telephone: (512) 692-8702
 23 Telecopier: (512) 692-8744

1 Martin C. Robson
2 Texas State Bar No. 24004892
3 mrobson@mckoolsmith.com
4 McKool Smith, P.C.
5 300 Crescent Court, Suite 1500
Dallas, Texas 75201
Telephone: (214) 978-4000
Telecopier: (214) 978-4044

6 **ATTORNEYS FOR PLAINTIFF**
7 **VISTO CORPORATION**

8 /s/ Khari J. Tillery

9 _____
10 Michael H. Page
11 Khari J. Tillery
KEKER & VAN NEST, LLP
12 710 Sansome Street
San Francisco, CA 94111
mpage@kvn.com
ktillery@kvn.com
415.391.5400 (phone)
415.397.7188 (fax)

15 **ATTORNEYS FOR GOOGLE, INC.**

16
17 SPIEGEL LIAO & KAGAY, LLP

18 I, Charles M. Kagay, attest that concurrence
in the filing of the document has been
19 obtained from each of the other signatories.

20 /s/ Charles M. Kagay
21 Charles M. Kagay

22
23 PURSUANT TO STIPULATION, IT IS SO ORDERED

24 DATED: April 8, 2008

25 
United States Magistrate Judge

26
27
28